



City of San Antonio

Agenda Memorandum

File Number: 17-5216

Agenda Item Number: 6.

Agenda Date: 9/18/2017

In Control: Board of Adjustment

Case Number: A-17-160
Applicant: Maria G. Sanchez
Owner: Maria G. Sanchez
Council District: 5
Location: 1519 Vera Cruz
Legal: Lot 23, Block 8, NCB 6034
Description:
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Shepard Beamon, Senior Planner

Request

A request for 1) a 19 foot 11 inch variance from the 20 foot rear setback, as described in Section 35-310.01, to allow a home addition one inch from the rear property line and 2) a four foot variance from the 5 foot side setback, as described in Section 35-310.01, to allow a home addition one (1) foot from the side property line.

Executive Summary

The owner constructed an attached carport and home addition that encroach in the side and rear setbacks. The applicant stated the addition was constructed to accommodate additional family members with disabilities. The new carport was built over an existing nonconforming carport and now sits at the rear property line and one foot from the side property line. The owner constructed a second floor addition which also encroaches into the 20 foot rear setback.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Home

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Homes
South	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Homes
East	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Homes
West	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Homes

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Guadalupe Westside Community Plan and currently designated as Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Avenida Guadalupe Neighborhood Association. As such, they were notified and asked to comment.

Criteria for Review

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is not contrary to the public interest.*

The public interest is defined as the general health, safety, and welfare of the public. Granting the rear setback variance heightens the risk of fire spread to the adjacent property and is contrary to the public interest as it serves as a potential safety hazard to the adjacent property. Further, side setbacks not only provide separation between structures but also, in this case, create an open streetscape. Reducing the side setback is therefore contrary to the public interest.

As the lot is shallow in depth, a 10 foot rear setback would provide adequate separation and lower risk of fire spread between the two properties.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

There are no special conditions that prohibit the home from meeting the five foot side setback. There is enough space in the side yard to meet the setback and have room for covered parking.

Due to the depth of the lot, meeting the full 20 foot rear setback established by the zoning district creates a hardship that significantly limits any expansion to the home. As the applicant has stated there is need for additional space in the home for more family members, a 10 foot setback would allow for expansion of the home and still provide a setback.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

Substantial justice will not be served as the addition, as built, does not provide any room to maintain the home without trespass on the neighboring property or the public right-of-way.

Providing a 10 rear setback would satisfy the spirit of the ordinance and provide room for the family to expand the home and maintain the property.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “RM-4 AHOD” Residential Mixed Airport Hazard Overlay District.

5. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.

The addition will significantly alter the appearance of the district as it consumes the majority of the rear yard, leaving little open space and no separation from the adjacent property. The lack of separation increases the risk of fire spread and water runoff on the adjacent property. Since the property is located on a corner lot, the addition is highly visible and creates conditions not common in the neighborhood.

Reducing the rear setback to 10 feet would provide safer conditions for the neighboring property and would better resemble the appearance of the district.

6. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.

There is no unique circumstance existing on the property that warrants the near deletion of both the side and rear yard. Had the applicant applied for building permits, there would have been information provided for all building constraints on the property.

As the lot only measures 75 feet in depth, the 20 foot rear setback, along with the 10 foot front setback, leaves only 45 feet of a buildable house depth. This is a unique circumstance and the reduction of the 20 foot rear setback to 10 feet would allow an addition and still provide a rear setback.

Alternative to Applicant’s Request

The owner would need to remove the addition and meet the rear and side setbacks.

Staff Recommendation

Staff recommends **DENIAL of a four foot variance from the 5 foot side setback to allow a home addition one (1) foot from the side property line**, based on the following findings of fact:

1. The request does not provide an open streetscape on the corner lot; and
2. The request does not provide room for maintenance without trespass on the public right-of-way.

Staff recommends **DENIAL of a 19 foot 11 inch variance from the 20 foot rear setback to allow a home addition on the rear property line with an Alternate Recommendation of a 10 foot variance from the 20 foot rear setback**, based on the following findings of fact:

1. The nearly complete elimination of the rear setback is detrimental to general safety and welfare of the adjacent property; and
2. A 10 foot rear setback provides open space and separation between the two abutting properties; and
3. A 10 foot rear setback reduces risks of fire spread and water runoff on the adjacent property; and
4. The lot measures 75 feet in depth and the 20 foot rear setback significantly restricts any expansion of the home.